
HOUSE BILL No. 1377

DIGEST OF INTRODUCED BILL

Citations Affected: IC 3-9-4-16; IC 3-9-8.

Synopsis: Campaign finance disclosures. Requires a corporation, an association, or a labor organization that makes campaign contributions using fees, dues, or contributions from members to annually provide to members a disclosure report of its campaign contributions. Specifies certain requirements for the report. Permits a member to file a complaint with the election division to enforce these provisions. Provides for civil penalties.

Effective: July 1, 2004.

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January 20, 2004, read first time and referred to Committee on Elections and Apportionment.

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Introduced

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

HOUSE BILL No. 1377

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-9-4-16, AS AMENDED BY P.L.66-2003,
2 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2004]: Sec. 16. (a) In addition to any other penalty imposed,
4 a person who does any of the following is subject to a civil penalty
5 under this section:

6 (1) Fails to file with the election division a report in the manner
7 required under IC 3-9-5.

8 (2) Fails to file a statement of organization required under
9 IC 3-9-1.

10 (3) Is a committee or a member of a committee who disburses or
11 expends money or other property for any political purpose before
12 the money or other property has passed through the hands of the
13 treasurer of the committee.

14 (4) Makes a contribution other than to a committee subject to this
15 article or to a person authorized by law or a committee to receive
16 contributions on the committee's behalf.

17 (5) Is a corporation or labor organization that exceeds any of the

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limitations on contributions prescribed by IC 3-9-2-4.

(6) Makes a contribution in the name of another person.

(7) Accepts a contribution made by one (1) person in the name of another person.

(8) Is not the treasurer of a committee subject to this article, and pays any expenses of an election or a caucus except as authorized by this article.

(9) Commingles the funds of a committee with the personal funds of an officer, a member, or an associate of the committee.

(10) Wrongfully uses campaign contributions in violation of IC 3-9-3-4.

(11) Violates IC 3-9-2-12.

(12) Fails to designate a contribution as required by IC 3-9-2-5(c).

(13) Violates IC 3-9-3-5.

(14) Fails to file a disclosure report required under IC 3-9-8-5.

(15) Fails to permit the inspection of documents substantiating a disclosure report under IC 3-9-8-8.

(b) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for filing a defective report or statement. If the commission determines that a person failed to file the amended report or statement of organization not later than noon five (5) days after being given notice under section 14 of this chapter, the commission may assess a civil penalty. The penalty is ten dollars (\$10) for each day the report is late after the expiration of the five (5) day period, not to exceed one hundred dollars (\$100) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.

(c) This subsection applies to a person who is subject to a civil penalty under subsection (a)(1) or (a)(2) for a delinquent report or statement. If the commission determines that a person failed to file the report or statement of organization by the deadline prescribed under this article, the commission shall assess a civil penalty. The penalty is fifty dollars (\$50) for each day the report or statement is late, with the afternoon of the final date for filing the report or statement being calculated as the first day. The civil penalty under this subsection may not exceed one thousand dollars (\$1,000) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.

(d) This subsection applies to a person who is subject to a civil penalty under subsection (a)(3), (a)(4), (a)(6), (a)(7), (a)(8), (a)(9), or (a)(10). If the commission determines that a person is subject to a civil penalty under subsection (a), the commission may assess a civil penalty

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of not more than one thousand dollars (\$1,000), plus any investigative costs incurred and documented by the election division.

(e) This subsection applies to a person who is subject to a civil penalty under subsection (a)(5). If the commission determines that a person is subject to a civil penalty under subsection (a)(5), the commission may assess a civil penalty of not more than three (3) times the amount of the contribution in excess of the limit prescribed by IC 3-9-2-4, plus any investigative costs incurred and documented by the election division.

(f) This subsection applies to a person who is subject to a civil penalty under subsection (a)(11). If the commission determines that a candidate or the candidate's committee has violated IC 3-9-2-12, the commission shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the election division:

(1) Two (2) times the amount of any contributions received.

(2) One thousand dollars (\$1,000).

(g) This subsection applies to a person who is subject to a civil penalty under subsection (a)(12). If the commission determines that a corporation or a labor organization has failed to designate a contribution in violation of IC 3-9-2-5(c), the commission shall assess a civil penalty equal to the greater of the following, plus any investigative costs incurred and documented by the election division:

(1) Two (2) times the amount of the contributions undesignated.

(2) One thousand dollars (\$1,000).

(h) This subsection applies to a person who is subject to a civil penalty under subsection (a)(13). If the commission determines, by unanimous vote of the entire membership of the commission, that a person has violated IC 3-9-3-5, the commission may assess a civil penalty of not more than five hundred dollars (\$500), plus any investigative costs incurred and documented by the election division.

(i) This subsection applies to a person who is subject to a civil penalty under subsection (a)(14). If the commission determines that the person failed to file the report by the deadline prescribed under this article, the commission shall assess a civil penalty. The penalty is fifty dollars (\$50) for each day the report is late, with the afternoon of the final date for filing the report being calculated as the first day. The civil penalty under this subsection may not exceed one thousand dollars (\$1,000) plus any investigative costs incurred and documented by the election division. The civil penalty limit under this subsection applies to each report separately.

(j) This subsection applies to a person who is subject to a civil

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penalty under subsection (a)(15). If the commission determines that a person failed to permit the inspection of documents substantiating a disclosure report, the commission shall assess a civil penalty of not more than one thousand dollars (\$1,000), plus any investigative costs incurred and documented by the election division.

(k) All civil penalties collected under this section shall be deposited with the treasurer of state in the campaign finance enforcement account.

(j) (I) Proceedings of the commission under this section are subject to IC 4-21.5.

SECTION 2. IC 3-9-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]:

Chapter 8. Report of Campaign Contributions by Certain Organizations

Sec. 1. (a) This chapter applies to campaigns for election to legislative and state offices.

(b) This chapter also applies to campaigns for election to federal offices that:

- (1) are conducted in Indiana; and
- (2) receive contributions from membership organizations that have members who reside in Indiana.

Sec. 2. As used in this chapter, "affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this definition, the terms "owns", "is owned", and "ownership" mean ownership of an equity interest, or the equivalent thereof, of ten percent (10%) or more, and the term "person" means an individual, a partnership, a committee, an association, a corporation, or any other organization or group of persons.

Sec. 3. As used in this chapter, "membership organization" refers to a corporation, an association, or a labor organization that:

- (1) charges a person a fee or dues to become a member; or
- (2) accepts contributions from a person:
 - (A) to become a member; or
 - (B) who is a member.

Sec. 4. (a) For purposes of this chapter, a membership organization that makes contributions to a campaign for federal, state, or legislative office in Indiana conducts business in Indiana.

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(b) A nonresident of Indiana who conducts business under subsection (a) is considered to have appointed the election division as the nonresident's agent for service of process in any action or proceeding against the nonresident arising from contributions to a campaign for federal, state, or legislative office in Indiana.

Sec. 5. (a) A membership organization that makes a contribution using all or a part of the fees, dues, or contributions collected from members shall provide to its members, not later than March 1 each year, a disclosure report describing the membership organization's contributions for the twelve (12) month period ending on the previous December 31.

(b) The disclosure report required by subsection (a) must include contributions by affiliates and political action committees of the membership organization or in which the membership organization participates if the amounts that the membership organization:

- (1) contributes to; or
 - (2) is assessed to pay for the contributions of;
- the affiliates and political action committees consist in whole or in part of the fees, dues, or contributions collected by the membership organization from its members.

Sec. 6. The disclosure report required under section 5 of this chapter must include the following information for each campaign to which a contribution was made:

- (1) The candidate's name.
- (2) The candidate's party affiliation or a statement that the candidate is an independent candidate not affiliated with any party.
- (3) The office the candidate was seeking.
- (4) The amount of the contribution, including a detailed itemization of the amount that was cash, in kind services, and any other type of property.
- (5) A statement as to whether the candidate won the election.
- (6) Any other information that the commission may by rule require.

Sec. 7. (a) The disclosure report required under section 5 of this chapter must be distributed by both of the following methods:

- (1) A copy of the disclosure report must be sent:
 - (A) by United States mail, postage prepaid; or
 - (B) if the member requests, electronically;
- to each member who paid a fee or dues or made a contribution to the membership organization since the date of

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the prior disclosure report.

(2) The disclosure report must be posted or available for review in a prominent and accessible place in:

- (A) the membership organization's principal offices; and
- (B) the location where meetings of the membership organization are usually held.

(b) The disclosure report may also be distributed by any other method, such as posting the disclosure report on a web site, that will give members of the membership organization ready and easy access to the disclosure report.

Sec. 8. The membership organization shall obtain and preserve all documents necessary to substantiate a disclosure report required under section 5 of this chapter for four (4) years after the date the disclosure report to which the documents relate is sent to the membership organization's members. The membership organization shall make these materials available for inspection upon request by the membership organization's members or the election division.

Sec. 9. A member of a membership organization:

- (1) who does not receive a disclosure report as required under section 5 of this chapter; or
 - (2) whose request under section 8 of this chapter to inspect the documents substantiating a disclosure report is refused;
- may request that the election division investigate the suspected violation under IC 3-9-4.

SECTION 3. [EFFECTIVE JULY 1, 2004] (a) Membership organizations (as defined in IC 3-9-8-3, as added by this act) shall file, not later than March 1, 2005, the initial disclosure reports required under IC 3-9-8-5, as added by this act, for the twelve (12) month period ending December 31, 2004.

(b) This SECTION expires March 2, 2005.

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